

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

JUN 25 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
)
Implementation of Section 309(j))
of the Communications Act --)
Competitive Bidding)

PP Docket No. 93-253

To: The Commission

PETITION FOR RECONSIDERATION OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet"), by its attorneys, hereby requests that the Commission reconsider its Third Report and Order ("Third Report") in the above-referenced proceeding for the limited purpose of reevaluating the auction methodology for awarding the 12.5 kHz unpaired Narrowband licenses to be used by existing licensees.

PageNet is concerned that reliance on single round sealed bid procedure will not award licenses to those who value them most highly, and urges the Commission to consider other options better designed to meet this and other policy objectives set forth by the Commission in the Third Report.

As set forth below, PageNet believes that the factual predicate underlying the Commission's decision to use a single round sealed bid is in error; a discussion of the facts pertaining

to these frequencies will demonstrate the need to use a multiple round ascending bid methodology.

I. THE COMMISSION SHOULD RECONSIDER ITS DECISION TO USE A SINGLE ROUND SEALED BID AUCTION METHODOLOGY FOR THE 12.5 KHZ UNPAIRED MTA AND BTA RESPONSE CHANNEL LICENSES

The Third Report, at ¶ 29, adopted a single round sealed bid auction for the 12.5 kHz unpaired response channel licenses based on the Commission's finding that such licenses will have a "low" value compared to the administrative cost of more complex auctions. The Commission also found that a single round sealed bid auction will minimize the likelihood of collusion, and that bidders should have sufficient information about license values from preceding narrowband auctions. Id. In order to give bidders a better opportunity to obtain the response channel licenses they need, the Commission authorized bidders to submit bids on more licenses than they are eligible to hold. Id.

PageNet respectfully submits that the Commission should reconsider the use of a single round sealed bid auction for these licenses. With respect to the Commission's principal rationale, PageNet believes that the Commission has underestimated both the likely value of these licenses to existing licensees and the disparity in license values among geographic regions and paging providers.

The licenses promise to be quite important to many existing one-way paging operations. As the Commission has already recognized, these frequencies are being made available "to allow licensees to upgrade their operations to provide acknowledgment

and messaging capability." Memorandum Opinion and Order, 9 FCC Rcd 1309, 1313 (1994). In the absence of being able to obtain these frequencies, existing licensees will have no access to low power response channels, and thus not be able to offer the advanced paging services the Commission and industry believe likely to be offered on the 50 kHz narrowband channels the Commission has allocated. Many existing paging licensees may feel that acquiring these 12.5 kHz frequencies is simply essential to maintaining their competitiveness in the broader messaging market place.

Furthermore, there are likely to be numerous bidders for most licenses. In virtually every MTA, there are scores of potential bidders. The FCC has allocated 640 kHz for low band paging, 120 kHz for high band paging, and 1 MHz for UHF paging. See, Further Notice of Proposed Rulemaking, Regulatory Treatment of Mobile Services, GEN. Docket No. 93-252, rel. May 20, 1994, at n. 165. These frequencies, allocated on a transmitter by transmitter basis, are presently licensed to numerous carriers within each market area. See, Second Report and Order, 74 RR 2d 835, 870 (1994). When the number of licensees in each market is multiplied by the number of markets within an MTA, it becomes obvious that virtually all MTA frequencies will be vigorously contested. ^{1/}

¹ Like PageNet, some carrier's service contours will extend over several cities, up to and including one or more MTAs. PageNet does not know the degree to which the BTA licensees will be contested; it is possible that in sparsely populated BTAs, there will only be a few bidders. However, PageNet believes it more likely that carriers will seek to aggregate multiple BTAs.

Given how competitive these auctions will likely be, PageNet believes that the Commission has overstated the risk of collusive bidding. Although the Commission has limited the eligibility for these licenses to incumbent operators, as noted above, the paging market is extremely competitive with a large number of carriers in each market. As noted above, PageNet reasonably expects there will be more applicants than licenses in all MTAs, making collusion unlikely. As a result, collusive behavior is no more likely for these response channel licenses than for other narrowband PCS licenses where the Commission has adopted what it perceives as a more complex auction method. On the other hand, where demand is light and there are enough frequencies to satisfy all applicants (perhaps in sparsely populated BTAs), there would likely be no mutual exclusivity, hence no collusion.

Further, PageNet questions whether, as the Commission hoped, bidders for these licenses will obtain useful information on license values from previous narrowband PCS auctions. Because the other narrowband PCS licenses will be sought primarily to support new operations or services, while the response channel licenses will augment the operations of incumbent providers, PageNet expects narrowband PCS values to be relatively independent of response channel license values which may be related more to the value of the system with which they are to be used.

II. THE COMMISSION SHOULD DEPLOY A MULTIPLE ROUND ASCENDING BID METHODOLOGY

There are several reasons why an alternative auction method would better promote the public interest in allocating these

licenses. License values will vary, often quite substantially, from one provider and area to another. Going into the auction, bidders may have no realistic idea, or wildly differing ideas, as to the value of these licenses. It is important to adopt an auction method which allows bidders to acquire useful information on license values during the auction for the preparation or modification of their bids. Otherwise the Commission risks disparate auction results which would undermine the efficient allocation and use of the underlying spectrum. The Commission itself has recognized that a single round auction method does not yield useful value information to bidders until after the auction has closed. Second Report and Order, 75 RR 2d 1, 22 n.81 (1994).

Further, PageNet believes that there is a substantial degree of value interdependence among the response channel licenses. Certainly, wide-area paging systems, or paging providers with operations in contiguous or multiple markets, will have a strong interest in obtaining as much frequency uniformity as possible among response channels. In addition, bidders may need to develop back-up strategies with regard to the frequencies or markets they choose to pursue most aggressively. The need for back-up strategies is underscored by the complexity of permitting bidders to bid for more licenses than they can hold (and by the possibility that the Commission may permit combinatorial bidding). Both of these factors -- interdependent values and back-up strategies -- militate in favor of an alternative to utilization of a single round sealed bid method. The Commission itself has recognized that alternative methods are preferable when license

values are interdependent and back-up strategies are necessary.
Id.

PageNet understands the Commission's desire to avoid unduly costly or burdensome auction methods for the response channel licenses. As a result, PageNet supports adopting an alternative auction method which is streamlined to minimize costs and complexity. The careful design of required bidding increments could speed the auction process without denying bidders the information and flexibility they need.

Because of the uncertainty as to values of the response channels, and the interdependence of licenses to one another, it would be appropriate for the Commission to adopt some sort of multiple round ascending bid methodology for these channels. A methodology of this sort allows the bidder to receive, and act on information received, during the course of an auction, and to have back-up strategies. See, Third Report at ¶ 12.

CONCLUSION

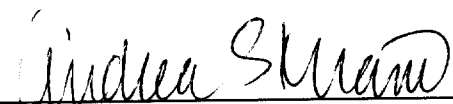
Clearly, the most appropriate auction methodology for response channels is the ascending bid multiple round auctions. Recognizing the Commission's concern about administrative efficiency, however, PageNet believes it appropriate to reserve comment on the specific procedures that should be deployed pending the conclusion of the nationwide narrowband, and interactive video data service auction to be held in late July. The experience with these ascending bid auctions should assist in refining the means

of using ascending bid auctions more generally.

Respectfully submitted,

PAGING NETWORK, INC.

By:



Judith St. Ledger-Roty

Robert J. Aamoth

Andrea S. Miano

REED SMITH SHAW & McCLAY

1200 18th Street, N.W.

Washington, D.C. 20036

(202) 457-6100

Its Attorneys

June 23, 1994

CERTIFICATE OF SERVICE

I, Susan E. Thomas, hereby certify that a copy of the foregoing *Petition for Reconsideration of Paging Network, Inc.* was sent, this 23rd day of June 1994, by hand-delivery, to the following individuals:

John Cimko, Jr., Chief
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 644
Washington, D.C.

Gerald P. Vaughan, Deputy Bureau Chief
(Operations)
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C.

Ralph A. Haller, Chief
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C.

Beverly G. Baker, Deputy Chief
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C.

Myron C. Peck
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 644
Washington, D.C.

Karen Brinkman, Special Assistant
Office of the Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C.

Rudolfo M. Baca, Legal Advisor
Office of Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C.

Byron F. Marchant, Senior Legal Advisor
Office of Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C.

Jane Mago, Senior Legal Advisor
Office of Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C.

Rosalind K. Allen, Acting Legal Advisor
Office of Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C.



Susan E. Thomas